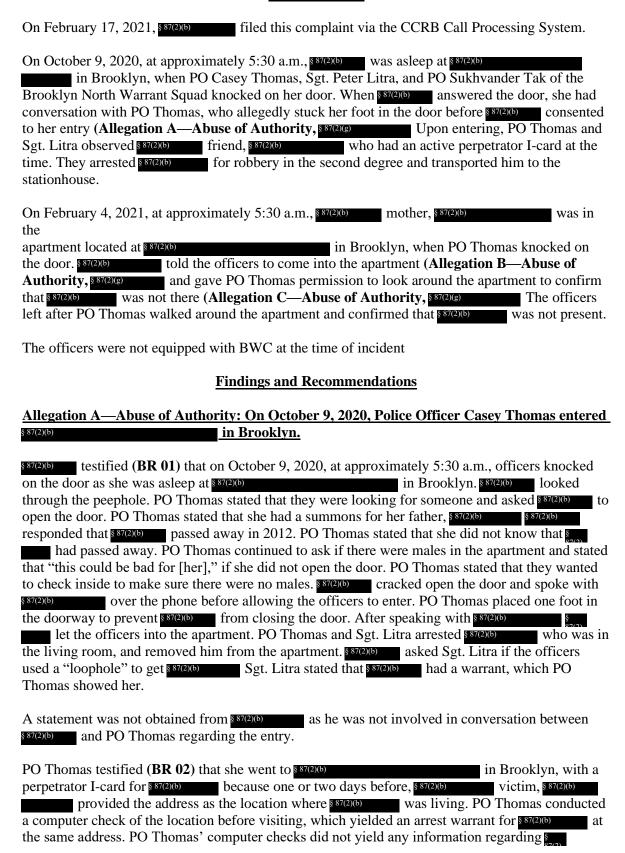
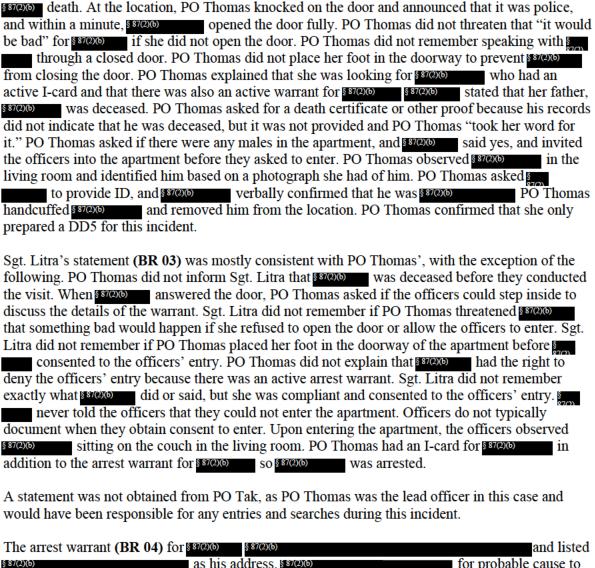
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	U.S.
Lily Kim		Squad #6	202101076	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Precinct:	18 Mo. SOL	EO SOL
Friday, 10/09/2020 5:30 AM, Th 02/04/2021 5:30 AM	ursday,	§ 87(2)(b)		81	4/9/2022	5/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	e Received at CC	RB
Wed, 02/17/2021 2:41 PM		CCRB	Call Processing System	Wed, 02/1	7/2021 2:41 PM	I
Complainant/Victim	Туре	Home Addre	ess			
Witness(es)		Home § 87(2)(b)				
Subject Officer(s)	Shield	TaxID	Command			
1. DT3 Casey Thomas	09646	961367	WARRSEC			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POM Patrick Sadowski	03558	961223	094 DET			
2. SGT Peter Litra	01197	951925	WARRSEC			
3. DT3 Sukhvinder Tak	03953	957202	WARRSEC			
Officer(s)	Allegatio	n		Inv	estigator Recon	nmendation
A.DT3 Casey Thomas	Abuse: C entered§	on October 9, 2020, Poli	ce Officer Casey Th in Bro			
B.DT3 Casey Thomas	Abuse: C entered	on February 4, 2021, Pol 37(2)(5)	lice Officer Casey T			
C.DT3 Casey Thomas		on February 4, 2021, Pol location <sup>§ 87(2)(9)</sup> i.	lice Officer Casey T	homas in		

## **Case Summary**





as his address. Security and canceled on October 9, 2020. Security are stated on September 20, 2020, and canceled on October 9, 2020.

In order to effect an arrest with an arrest warrant, the police officer may, under circumstances and in the manner prescribed in this subdivision, enter any premises in which he reasonably believes the defendant to be present, NY CLS Criminal Procedure Law 120.80 (BR 08). In the case of People v. Cabral, the court concluded the People failed to demonstrate the legality of police conduct, based on the following. First, they failed to prove that the subject of the warrant lived at the location in question. The arrest warrant contained a "last known address" from six and a half months earlier, which was insufficient to prove that the subject lived there. The fact that a suspect may have lived at a particular premises at some point in time does not legally transform those premises into his

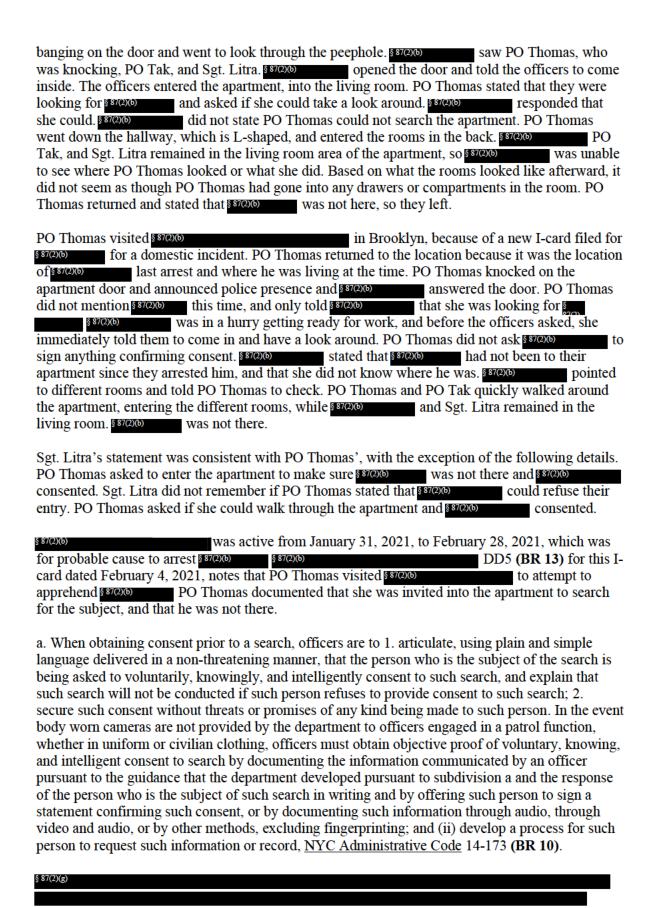
residence for a period of indefinite duration. Second, they failed to prove that the warrant officers had a reasonable belief of the subject's presence therein at the time the arrest warrant was executed. A "reasonable belief" that the suspect is present cannot be arrived at simply because that suspect may have lived at those premises six and a half months prior thereto, People v. Cabral, 147 Misc. 2d 1000 (1990) (BR 09). a. When obtaining consent prior to a search, officers are to 1. articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explain that such search will not be conducted if such person refuses to provide consent to such search; 2. secure such consent without threats or promises of any kind being made to such person. In the event body worn cameras are not provided by the department to officers engaged in a patrol function, whether in uniform or civilian clothing, officers must obtain objective proof of voluntary, knowing, and intelligent consent to search by documenting the information communicated by an officer pursuant to the guidance that the department developed pursuant to subdivision a and the response of the person who is the subject of such search in writing and by offering such person to sign a statement confirming such consent, or by documenting such information through audio, through video and audio, or by other methods, excluding fingerprinting; and (ii) develop a process for such person to request such information or record, NYC Administrative Code 14-173 (BR 10).

It is undisputed that PO Thomas, Sgt. Litra, and PO Tak entered [887(2)(6)] in
Brooklyn, and arrested therein. In <u>People v. Cabral</u> , it was established that an address
listed for the subject six months prior was insufficient proof of the subject's residence at the
location at the time of the officers' entry, and in this case, \$87(2)(6)
over eight years before October 9, 2020. The fact that [87(2)(0)] was listed on the arrest
warrant was insufficient to prove that sage resided there on the incident date. Furthermore, PO
Thomas was unable to confirm if (\$87(2)(6) was living or deceased and stated in her CCRB
interview that she "took \$87(2)(6) word for it" that he was deceased, which indicates that PO
Thomas did not have a reasonable belief that sacross was present in the apartment. Given that the
officers failed to meet the conditions of an entry on an arrest warrant as designated in NY CLS
<u>Criminal Procedure Law</u> 120.80, PO Thomas was required to obtain consent to enter the premises.
PO Thomas testified \$37(2)(0) invited the officers in before they requested to enter, in which case
she would not have had to follow consent procedure in NYC Administrative Code 14-173.
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(g)
Allogation D. Abuse of Authority, On February 4 2021 Police Officer Cosey Thomas
Allegation B—Abuse of Authority: On February 4, 2021, Police Officer Casey Thomas entered \$87(2)(6) in Brooklyn.
Allegation C—Abuse of Authority: On February 4, 2021, Police Officer Casey Thomas
AMERATION C.—ADDING OF AUTHOURY, ONE ECOLUMEY 4, 2021, FUNCE OTHICL CANCY FROMAN

in Brooklyn.

testified (BR 11) that on February 4, 2021, at approximately 5:30 a.m., she heard

searched § 87(2)(b)



§ 87(2)(g)			
Although PO Th	omas testified that \$87(2)(6)	invited them in and then to	ld the officers to look
Administrative C Form, as require a BWC during the	Code 14-173(a)(1). Furthern d by NYC Administrative (ne time of the incident, under the consent through p	ive proof of the consent, as deline more, PO Thomas did not prepare Code 14-173(b)(2). Although PO ter Administrative Code 14-173 (h) aperwork signed by	a Consent to Search Thomas was not issued
§ 87(2)(g)			
§ 87(2)(g)			
	<u>Civilian and</u>	Officer CCRB Histories	
<ul><li>This is the PO Thoracter</li><li>CCRB c</li></ul>	omplaints and seven allega int #202102170 is pending	which \$370,00 has been a paservice for six years and has been tions, none of which were substant	party (BR 15). a subject in four
Comptro	declined to mediate this cary 28, 2022, a FOIL reque		
Squad: 6	;		
Investigator: _	Lily Kim Signature	Investigator Lily Kim Print Title & Name	
Squad Leader: _	Jessica Peña Signature	IM Jessica Peña Print Title & Name	1/31/2022 Date

**CCRB Case # 202101076**